



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/770,765

01/25/2001

Meir Feder

14531.107.1.4

7763

7590

01/20/2004

RICK D. NYDEGGER
WORKMAN NYDEGGER & SEELEY
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

EXAMINER

NALEVANKO, CHRISTOPHER R

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/770,765

Applicant(s)

FEDER ET AL.

Examiner

Christopher R Nalevanko

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-39 is/are pending in the application.
- 4a) Of the above claim(s) 22-29, 41 and 42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 30, 32, 33, and 35 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Adams.

Regarding Claim 30, Adams shows a method of bandwidth allocation for transmitting video on a cable network comprising providing a plurality of data sources (col. 2 lines 27-41, col. 4 lines 35-50), differentially converting the data sources into compressed video streams responsive to an instantaneous resource restriction (col. 5 lines 10-50, col. 7 lines 30-45), and multiplexing the compressed video streams on a single transmission line (col. 4 lines 35-50, see fig. 1 item 110, fig. 2).

Regarding Claim 32, Adams shows that the frame quality may be increased depending on bandwidth availability (col. 2 lines 12-17).

Regarding Claim 33, Adams shows that the resource restriction comprises bandwidth restrictions (col. 5 lines 10-50, lines 64-67).

Regarding Claim 35, Adams shows that the data sources comprise display commands, or instructions on how the data will be displayed (col. 1 lines 50-59, col. 2 lines 42-44, col. 4 lines 58-59). This 'application data' or 'auxiliary packets' are data that

Art Unit: 2611

describe how the 'frame' of MPEG data is displayed. The data describing what frames are to be displayed or what bit rate to use are the display commands. The information tells the receiver how to create, or display, the image at the user site.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 31, 34, and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams in further view of Ravi et al.

Regarding Claim 31, Adams shows converting each stream into a different bit rate, but fails to specifically state that the bit rate is associated with the frame rate. Ravi shows converting streams of video to different frame rates (col. 6 lines 35-47). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Adams with the variable frame rate of Ravi in order to provide the best video in accordance with the available bandwidth.

Regarding Claim 34, Adams fails to show that the resource restriction comprises a computing restriction. Ravi shows varying data and frame rates based on computing restrictions (col. 7 lines 19-25, col. 11 lines 10-25). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention to modify Adams with

ability to vary the data rate based on computation capacity as in Ravi in order to provide the user's terminal with the most efficient amount of data.

Regarding Claim 36, Adams fails to show differentially converting the data responsive to the content. Ravi shows differentially converting the data based on the content, such as what frames are being transmitted and how much resolution in the data (col. 12 lines 23-47). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention to modify Adams with ability to vary the data rate based on the data content as in Ravi in order to provide the user's terminal with the most efficient amount of data.

Regarding Claim 37, Ravi shows that the data indicates whether an I or P frame is transmitted as well as the resolution or frame rate (col. 12 lines 23-47).

Regarding Claim 38, Adams shows that it is possible to analyze, based on the display commands, such as bit rate and application data, to determine the content of the data, such as a slow moving scene (col. 2 lines 12-17).

Regarding Claim 39, Adams shows that applications data, generated by software, indicates information about the content of the data (col. 1 lines 50-59, col. 2 lines 42-44col. 4 lines 58-59).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ito et al U.S. Patent No. 6,014,693 discloses a system for delivering compressed stored video data by adjusting the transfer bit rate to compensate for high network load.

Youden et al U.S. Patent No. 5,815,146 discloses a video on demand system with multiple data sources configured to provide VCR-like services.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Nalevanko whose telephone number is 703-305-8093. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Christopher Nalevanko
AU 2611
703-305-8093

cn



**VIVEK SRIVASTAVA
PRIMARY EXAMINER**